

Michigan and the US Nuclear Regulatory Commission Agreement State Program

A Meeting with Licensees and other Stakeholders
March 16, 2007

MEETING SUMMARY

1. Background

A meeting with major stakeholders was held Friday, March 2, 2007 to introduce and discuss a proposal developed by the Departments of Environmental Quality (DEQ) and Community Health (DCH) to consolidate radiation protection programs and to pursue an Agreement with the U.S. Nuclear Regulatory Commission (NRC). Under the terms of such an Agreement, the NRC would transfer regulatory authority for source, byproduct, and special nuclear materials to the State of Michigan. Many attendees expressed interest in and concern for the practical aspects of the consolidation and Agreement processes and volunteered to be involved in ongoing discussions and planning activities.

2. Opening Remarks

Mr. Thor Strong, Chief of the Radiological Protection Section, DEQ, welcomed stakeholders and provided some background remarks recapping major points from the presentation on March 2, 2007 and comments received from stakeholders at that meeting. He indicated that this meeting was convened to provide additional information on the proposal and to address concerns raised in the earlier meeting.

Mr. Strong noted that the proposed strategy is modeled after Wisconsin's successful efforts. He introduced Mr. Paul Schmidt, manager of Wisconsin's radiation protection program, who was invited to provide insight into the highlights and lowlights of Wisconsin's pursuit and implementation of an Agreement. Wisconsin signed an agreement with the NRC in August 2003. Mr. Schmidt also serves as the chairperson of the Organization of Agreement States.

3. Comments by Mr. Paul Schmidt, Wisconsin Radiation Control Program included:

- While consolidated in one organization, the Wisconsin x-ray and radioactive material programs operate separately. X-ray inspectors do not inspect materials licensees.
- Mr. Schmidt recommended we hire an experienced person from an Agreement State to assist in the development of our program.
- Wisconsin does not exempt small entities or academic institutions from paying fees because of the issue of fairness.
- Recognizing the commitment to the NRC that underscores the agreement, the Wisconsin radiation control program was designated a "critical business function." As such, it is not subject to hiring freezes, travel restrictions, or budget cuts.
- Wisconsin considers good communications a high program priority including, licensee workshops, information notices, E-mails, website, etc.
- Wisconsin mails an information newsletter with each bill for the annual fee. They also sent status updates with the interim fee bills.
- Agreement state staff attend the same training courses as NRC staff, accompany NRC staff during inspections, and can arrange to accompany staff in other Agreement States. Agreement state licensing staff can visit the NRC to observe NRC staff processing licenses and can visit other Agreement States to observe their licensing practices.

- Wisconsin passed a statute eliminating standing Advisory Boards. The radiation program now convenes ad hoc committees as needed.
- Some potential pitfalls are inadequate funding, lack of ability to hire new staff, and lack of ability to train staff. It was noted that other states had experienced such problems because of lack of planning and dedicated funding.

4. Comments and Discussion by Michigan Stakeholders and Staff:

- A stakeholder expressed concern about how regulations were to be enforced. Mr. Schmidt stated that Wisconsin researched enforcement systems used by other Agreement States and decided that Wisconsin would model their enforcement on the Texas system. NRC expects states to have a strong enforcement process and have roughly the same level of fines. Staff mentioned the current DCH Bureau of Health Services enforcement mechanism allows an initial opportunity and timeframe to comply and that fines go to the General Fund, not to the program.
- A stakeholder asked what is the known incentive and why must the state pursue Agreement State status now. Staff discussed the effort begun in 2004 to investigate the possibility of Michigan pursuing Agreement State status. The Energy Policy Act of 2005 has given additional momentum to the process since the NRC has asked states to let them know as soon as possible whether or not they will pursue an agreement. Governor Granholm, in her reply to the NRC, directed the departments to develop a strategy for pursuing and implementing an Agreement with the NRC.
- A stakeholder was concerned that 13.5 staff would not be sufficient for the program. Staff explained that the number of people working in the program was based on information from the Conference of Radiation Control Program Directors and a review of staffing levels in other Agreement States. Michigan anticipates having about 600 licensees.
- The comment was made that Michigan must adopt reasonable regulations. Mr. Schmidt said that Wisconsin modified and adopted the "Suggested State Regulations" (SSR) developed by the Conference of Radiation Control Program Directors. Wisconsin considered the SSR more user-friendly than the NRC regulations. Staff said that Michigan's regulations will not be more restrictive than the NRC regulations and that the "Ionizing Radiation Rules" will be revised whether or not Michigan signs an Agreement with the NRC. In addition, the NRC requires an Agreement State to implement rule changes within three years of their adoption by the NRC.
- Stakeholders and staff discussed the purpose and authority of a Radiation Advisory Board. Staff said that the draft statute provides for an advisory board appointed by the director instead of by the governor as is in the existing statute. An advisory board would provide technical advice and policy guidance to the department.
- Stakeholders considered good communications and openness essential to enable them to have confidence in the Agreement process and to support this initiative. Staff said that they plan to continue to hold Project Advisory Committee meetings, stakeholders meetings, send information by E-mail, and post meeting summaries and other information on our [website](#).

- Stakeholders expressed concern about dispute resolution between licensees/registrants and the regulators. Ideally, both sides should meet informally to resolve a dispute. If this is not possible, the Administrative Procedures Act provides a formal means of resolving differences. DCH and DEQ administrators are available to discuss licensee concerns.
- Stakeholders expressed concern that a quality Agreement State program could not be implemented within the proposed four years. Mr. Schmidt stated that good planning and dedicated funding are keys to putting a program together. He mentioned a state that had not planned well and the pitfalls they encountered. He stated that Michigan's plan appears well conceived. Staff expressed confidence that a program could be put together in four years.
- Along with the concern regarding implementation in four years, stakeholders expressed concern regarding continuation of the surcharge beyond the four-year timeframe. Staff noted that the draft legislation included a sunset provision ending the surcharge after four years.
- Stakeholders were concerned that Michigan would not be able to hire qualified staff. They recommended that we see if Michigan salaries are competitive. DCH staff said that they recently advertised to fill several x-ray inspector positions and received resumes from many good candidates with strong physics backgrounds. DCH and DEQ staff said that they have historically had good employee retention. DCH staff mentioned that necessary out-of-state travel to train surveyors has always been approved.
- Another comment was that the state should establish milestones showing steps necessary to sign an Agreement in four years and share it with stakeholders. Staff agreed and committed to establish milestones and to keep stakeholders informed about progress.
- A stakeholder expressed concern about the regulation of new technology and how the NRC regulations often impede the utilization of it. Another stakeholder mentioned that the NRC has no regulations specific to the veterinary use of radioactive material. Staff said that we will be more flexible than the NRC. Licensees as well as the DCH Certificate of Need New Technology committee can help us be aware of new technologies.
- A stakeholder said that the surcharge will have a large effect on his facility as they pay a large annual fee for their NRC license. He raised an equity issue and said that the surcharge should be spread over all licensees including those who pay no fees to the NRC.
- Stakeholders agreed that the x-ray and radioactive material programs should be together in one agency and co-located.
- A stakeholder offered to host a future meeting of the stakeholders group.
- A stakeholder said that he has talked with people in other states and received positive feedback about Agreement States.

- A stakeholder stated that an advantage of becoming an Agreement State is “dealing locally with local people.”
- A stakeholder stated that his administration does not believe there is a benefit of Michigan becoming an Agreement State.
- A stakeholder stated that we should keep the fees and jobs in Michigan.
- A stakeholder wanted to see an organizational chart for the recombined program with job responsibilities outlined. Staff said that several possibilities for the organizational structure exist but a decision on the organizational structure is premature.
- A stakeholder said that NRC license fees will continue to increase. If Michigan becomes an Agreement State, Michigan licensees will eventually pay lower fees than those charged by the NRC.